

Exhibit 104

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.

Civil Action No. 07-10248-PBS

Exhibit to the August 28, 2009 Declaration of James J. Fauci In Opposition To
Corrected Boehringer Ingelheim Corporation and Boehringer Ingelheim Pharmaceuticals, Inc.
Local Rule 56.1 Statement of Undisputed Material Facts
in Support of Their Motion For Summary Judgment

Bob Spina
Distribution Workshop

Workshop Tools

- Reimbursement
- DEA 222 Form
- Trade Launch & Deal

Reimbursement

- Definitions
- Patient Payment Types
 - Cash
 - Medicaid
 - Third Party
- Reimbursement
 - AWP Less
 - Dispensing Fee
 - Patient Copay
 - Generic vs Brand
- Roxicodone Model

Reimbursement Definitions

- Wholesale Acquisition Cost (WAC)
- Average Wholesale Price (AWP)
- Contract Price
- AWP Spread
- AWP Less %

WAC

(Wholesaler Acquisition Cost)

The published price the wholesaler or direct purchasing account pays to the manufacturer for a product.

Roxicodone 15mg 100's	\$55.00
Roxicodone 30mg 100's	\$106.00
Roxicodone 5mg 100's	\$31.04

AWP

(Average Wholesale Price)

An arbitrary price attributed to a product by a manufacturer or an independent source; often 20-25% above wholesale acquisition cost (WAC).

Roxicodone 15mg 100's	\$110.00
Roxicodone 30mg 100's	\$212.00
Roxicodone 5mg 100's	\$31.04

Contract Price

Price that an account pays that is below the WAC. Sometimes associated w/ a brand purchase, almost always associated w/ a generic purchase.

Roxicodone 15mg 100's	None
Roxicodone 30mg 100's	None
Roxicodone 5mg 100's	\$16.00

AWP Spread

Difference between AWP and the actual acquisition cost.

Acquisition cost is usually WAC for a brand.
Acquisition cost is usually a contract price for a generic.

Roxicodone 15mg	50% Spread
Roxicodone 30mg	50% Spread
Roxicodone 5mg	48% Spread

AWP Less %

Percentage discount off AWP that a Pharmacy is paid by a third party as compensation for dispensing a prescription to one of its plan participants.

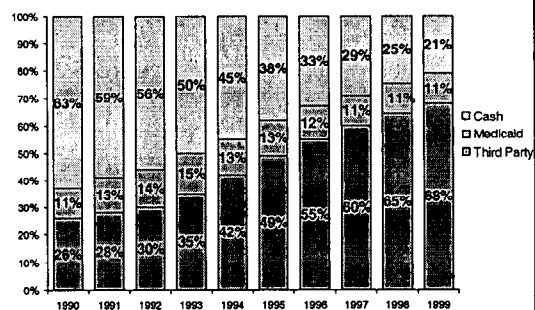
Usually AWP less 8-15% for brand
Usually AWP less 20-50% for generics

Roxicodone 15mg	Brand
Roxicodone 30mg	Brand
Roxicodone 5mg	Generic

How is the Prescription Paid For?

- Cash
- Medicaid
- Third Party

Patient Rx Payment Type 1990 to 1999



Patient Prescription Payment Cash

- Patient pays out of their own pocket
- Patient's Rx price usually mark-up from AWP
- Pharmacy's most profitable Rx sale

Patient Prescription Payment Medicaid

- a.k.a. Welfare
- Patient pays no to small percentage of cost e.g. co-pay
- Pharmacy paid by state at:
 1. Maximum Allowable Cost (MAC) for some generics
 2. AWP less % for brand & some generics

Patient Prescription Payment Third Party

- a.k.a. Managed Care, Insurance
- Patient pays a cash copay
- Pharmacy receives AWP less a % plus a fixed dispensing fee
- % off is negotiated w/ plan
- % varies for brand vs generic

Definitions & Payment Types: Why Important?

Drives The Pharmacy's **Profitability** on Each Script
&

Determines Whether They Will **Substitute**

Pharmacy Reimbursement Formula

$$\text{AWP} - \% + \text{Dispensing Fee}^* = \text{Rx \$ Revenue}$$

$$\text{Rx \$ Revenue} - \text{Acquisition Cost}^{**} = \text{Rx \$ Profit}$$

* Dispensing Fee the same if generic or brand

** Acquisition Cost may be WAC or Contract Price

Roxicodone Reimbursement Model

BRAND	Roxicodone 15mg & 30mg				Generic				Substitution Fee			
	Brand	WAC	Contract Price	Dispensing Fee	Brand	WAC	Contract Price	Dispensing Fee	Brand	WAC	Contract Price	% Off
Hydrocodone	15mg	10.00	8.00	1.00	Hydrocodone	15mg	8.00	1.00	Hydrocodone	15mg	8.00	20.00
Hydrocodone	30mg	15.00	12.00	1.00	Hydrocodone	30mg	12.00	1.00	Hydrocodone	30mg	12.00	20.00
Hydrocodone	15mg	10.00	8.00	1.00	Hydrocodone	15mg	8.00	1.00	Hydrocodone	15mg	8.00	20.00
Hydrocodone	30mg	15.00	12.00	1.00	Hydrocodone	30mg	12.00	1.00	Hydrocodone	30mg	12.00	20.00

What Does This Mean for Roxicodone 15mg & 30mg

Typically **More Profitable** to Dispense
Roxicodone **15mg & 30mg**

**Pharmacy Won't Change Script to 5mg

**Pharmacy May Proactively Change 5mg Scripts
to 15mg or 30mg

DEA Form-222

- Definition
 - DEA
 - DEA #
 - 222 Form
- Paper Flow
- How To Fill Out
- 222 Organizer

Drug Enforcement Agency (DEA)

- *Division of Dept of Justice
- *Enforces Controlled Substance Act
- *Determine Abuse Potential &
Assign Schedule I-V
- Regulate Who Can Prescribe &
Dispense Schedule II-V
- *Not Part of the Food & Drug
Administration

DEA Registration No. BD5579783

- Issued to a business at a specific location
- Unique 2 character and 7 digit number
- First character designates type of practice
Pharmacies always start w/ B
- Second character is first initial of name
Dug Emporium is BD
- Verify authenticity
last digit = $1+3+5 + (2+4+6)*2$
 $19 + (22)*2 = 63$

DEA Form-222

A sequentially numbered, partially pre-printed
triplicate from which to track the purchase or sale
of CII's to non-end users.

How To Fill Out A DEA Form-222

222 Organizer

Wholesale NA Responsibility

Wholesaler	NA Manager	Wholesaler	NA Manager	Wholesaler	NA Manager
AmerSource	Gordon	Diversified	Hawthorne	McQueeny	Doan
Barnes	Can-Hall	Dixon Shane	Gordon	Miami Luken	Hawthorne
Bellamy	Doan	DMS	Hawthorne	Morris & Dixon	Doan
Belco	Kutner	F Dohman	Tavolaro	NC Mutual	Doan
Bergen	Can-Hall	FW Ken	Hawthorne	Remo	Kutner
Birdley	Hawthorne	G & G	Kutner	Rochester Drug Coop	Kutner
Burlington	Kutner	Harndt	Doan	Smith Drug	Doan
Capital	Hawthorne	HD Smith	Tavolaro	Valley Drug	Snyder
Cardinal	Snyder	King Drug	Doan	Valley Wholesale	Can-Hall
CD & K	Via	Kinray	Kutner	Value Drug	Kutner
Dakota	Tavolaro	Louisiana Wholesale	Doan	Walsh	Doan
Dix Drug	Hawthorne	M Sobol	Kutner	Walsh Dohman	Doan
		McKesson	Can-Hall		

What Have Addressed So Far?

Third Party Profitability: Want To Dispense
CII Administrative Obstruction: DEA Form-222

But Why Should They Stock It Initially?

An Enormous Financial Incentive

Wholesaler

- Purchasing Allowance 3% OI
- Extra 60 Days Dating
- Distribution Allowance \$5/bottle
- Total value \$5+ per bottle sold

Why Important?

Some wholesalers will pass part or all of their purchase allowance and/or part or all of their distribution allowance to the Pharmacies they service for a period of time

Wholesaler Pass-Thru Worksheet

<u>Accounting</u>		<u>Wholesaler</u>	<u>Wholesaler</u>	<u>Wholesaler</u>	<u>Wholesaler</u>	<u>Wholesaler</u>	<u>Wholesaler</u>	<u>Wholesaler</u>	<u>Wholesaler</u>	<u>Wholesaler</u>
	<u>Ting</u>	<u>Purchase</u>	<u>Purch. Allow.</u>	<u>Purch. Allow.</u>	<u>Discont.</u>	<u>Disc. Allow.</u>	<u>Disc. Allow.</u>	<u>Disc. Allow.</u>	<u>Disc. Allow.</u>	<u>Disc. Allow.</u>
Amesbury	Gordon	\$1.65				\$5.00				
Barnes	Carr-Hall	\$1.85				\$5.00				
Bellamy	Dolan	\$1.85				\$5.00				
Belle	Fisher	\$1.85				\$5.00				
Bergen	Carr-Hall	\$1.65				\$5.00				
Bondy	Hawthorne	\$1.45				\$5.00				
Burlington	Jones	\$1.65				\$5.00				
Capital	Hawthorne	\$1.65				\$5.00				
Cardinal	Snyder	\$1.85				\$5.00				
O & K	Via	\$1.65				\$5.00				
Orlando	Traylor	\$1.45				\$5.00				
De Ding	Hawthorne	\$1.65				\$5.00				
Greenleaf	Hawthorne	\$1.45				\$5.00				
Ocean State	Gordon	\$1.65				\$5.00				
DMS	Hawthorne	\$1.85				\$5.00				

Enormous Profitability on Initial Stocking

- All or Part of Wholesaler Purchase Allowance
- All or Part of Wholesaler Distribution Allowance
- ALL of **Retail Stocking Allowance** from Roxane

Retail Stocking Allowance

- All Retail Pharmacies
- Stocking Allowance
\$5/bottle
- Invoiced by 11/10/00
- Maximum \$10 per
Pharmacy location

Retail Stocking Allowance

- \$10 maximum per pharmacy location
- Total 2 bottles
- Same strength or combination
- Fax or mail invoice
- Can use pre-printed PharmAlert envelope
- Receive a check

RETAIL STOCKING ALLOWANCE
*****NEW PRODUCT IN REDUCTION*****
From
Boehringer Ingelheim/Reckitt Laboratories, Inc.

THE FIRST & ONLY
ROXICODONE™ CII
(Oxycodone Hydrochloride)
15mg & 30mg
TABLETS

\$5/Bottle Stocked!!!
On Your Retail Pharmacy Shelf
(Maximum for Pharmacy Location)

Purchase Period: through 11/10/00

--- First & Only 15mg & 30mg Dosage Strengths ---
--- Increased Dosing Flexibility ---
--- Simplified Dosage Titration ---
--- Single Entity Product ---
--- Reduced PII Burden for Patients ---

Quantity	Stock	Net	WAC	Net
Wholesaler Purchase	1000	\$100.00	\$110.00	\$110.00
Wholesaler Distributor	1000	\$101.65	\$113.30	\$113.30

To receive your rebate, please send proof-of-purchase invoice to:
Boehringer Ingelheim Retail Processing Center
111 East South Street
Appleton, WI 54912
Telephone: 1-800-397-1810 (toll free)
Or Fax to 1-920-793-0934

Purchaser has no obligation to report discounts, rebates, and free goods to Medicaid, Medicare, and federal health care programs under applicable third-party payer. This is the sole responsibility of the purchaser. Boehringer Ingelheim Pharmaceuticals, Inc. reserves the right to limit its quantities. Offer valid for retail customers only. Not applicable to Bld Contract Sales. Invoices must be received by

Insert PharmAlert letter here!!

Maximum Potential Stocking Discount: 15mg

WAC	\$55.00
Wholesaler Purch. Allow. Pass	(\$1.65)
Wholesaler Distr. Allow. Pass	(\$5.00)
<u>RLI Retail Stocking Allow.</u>	<u>(\$5.00)</u>
Net Price	\$43.35

21% Discount to WAC!

Maximum Potential Stocking Discount: 30mg

WAC	\$110.00
Wholesaler Purch. Allow. Pass	(\$3.30)
Wholesaler Distr. Allow. Pass	(\$5.00)
<u>RLI Retail Stocking Allow.</u>	<u>(\$5.00)</u>
Net Price	\$96.70

12% Discount to WAC!

**What Have We Learned?
Reimbursement**

- On AWP less % third party script, Roxicodone 15mg & 30mg is (in the worse case scenario) comparable on mg to mg basis w/ 5mg generics.
- 15mg & 30mg will usually be more profitable
- No incentive for RPh to substitute generics
- Incentive for RPh to substitute 15mg & 30mg for generic 5mg tabs.

**What Have We Learned?
DEA Form-222**

- Paperwork is Not Formidable
- NDC Inclusion is Beneficial & Would Promote Wholesaler Stocking

**What Have We Learned?
The Stocking Plan**

- Wholesaler May Pass Some or All of Their Purchasing Allow. &/or Distribution Allowance.
- RLI Providing a Retail Stocking Allowance in Addition to Anything Wholesaler Provides
- Additional Profit To Be Had by RPH Who Stocks by 11/10/00.